

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In Re:

CASE NO. 09-26577-MDM

ROBERT L. MICHAEL and
TRACI L. MICHAEL
a/k/a TRACI L. LAVIGNE

CHAPTER 13

Debtors.

MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS ASSIGNEE OF MORTGAGE
ELECTRONIC REGISTRATION SYSTEMS, INC., ACTING SOLELY AS NOMINEE FOR
U.S. BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY

Now comes U.S. Bank National Association, as Assignee of Mortgage Electronic
Registration Systems, Inc., Acting Solely as Nominee for U.S. Bank, N.A. (hereinafter
“Creditor”), by its attorneys, Kohner, Mann & Kailas, S.C., and seeks an Order of the
Bankruptcy Court granting Creditor relief from the automatic stay, so that Creditor may pursue
foreclosure and repossession procedures for payment of the debts owed by Robert L. Michael
and Traci L. Michael (hereinafter “Debtors”). In support hereof, Creditor states:

JURISDICTION

1. The Debtors filed for relief under Chapter 13 of the U.S. Bankruptcy Code (11
U.S.C. §101 et seq.) on May 8, 2009. Thomas J. King is the Chapter 13 Trustee.

Janine L. Collette, Esq.
Attorneys for U.S. Bank, N.A.
Kohner, Mann & Kailas, S.C.
Washington Building
4650 North Port Washington Road
Milwaukee, WI 53212-1059
Telephone: (414) 962-5110
Facsimile: (414) 962-8725
Email: jcollette@kmklawfirm.com

2. This Court has jurisdiction over this proceeding under 28 U.S.C. § 1334, § 157, and the Order of Reference of the District Court; this is a core proceeding under 28 U.S.C. § 157; and venue in this Court is proper under 28 U.S.C. § 1409.

3. This Motion is brought pursuant to Bankruptcy Code § 362, and the Federal Rules of Bankruptcy Procedure 4001, 9014 and 6007.

MOTION FOR RELIEF FROM THE AUTOMATIC STAY

4. As of December 1, 2009, the Debtors were indebted under a Note and Mortgage by virtue of funds and credits advanced to, or on behalf of, the Debtors; to wit:

Principal Balance	\$ 71,593.03
Interest	9,958.20
Accum. Late Charges	306.33
Escrow Advance(s)	3,420.78
Recoverable Corporate Advance(s)	20.00
BPO Appraisal	125.00
Recording Fee	11.00
Prop. Insp./Pres.	300.00
Foreclosure Attorneys' Fees and Costs	2,548.54

SUBTOTAL	\$ 88,282.88
----------	--------------

PLUS:

Bankruptcy Attorneys' Fees	700.00
Bankruptcy Attorneys' Costs	150.00
TOTAL	\$ 89,132.88

Interest Per Month from September 1, 2007	371.70
---	--------

Interest Rate	6.125%
---------------	--------

5. Said debt is secured by a parcel of real estate and improvements, as evidenced by the loan and security documents attached hereto as an Exhibit. The real estate and improvements described in the loan and security documents, commonly known as 1709 Wisconsin Avenue, Sheboygan, Wisconsin 53081, are hereinafter referred to as the "Collateral."

6. The loan Note is in default. The Debtors have not made the payment due on September 1, 2009, and all payments due since then. As of December 10, 2009, the Debtors were past due for three (3) payments, with a payment delinquency of \$1,971.24, and the monthly payment for December 1, 2009 in the amount of \$657.08, is due.

7. The estimated fair market value of the property per the Sheboygan County Treasurer's office is \$72,400.00, less a forced sale discount of 20%, leaves an estimated value at foreclosure sale of \$57,920.00.

8. The Debtors have no equity in the Collateral and the Collateral is not necessary for an effective reorganization of the Debtors or their estate.

9. Creditor is entitled to adequate protection of the mortgage and lien in and against the Collateral. Neither the Debtors nor the Chapter 13 Trustee has offered to and neither will be able to adequately protect said mortgage interest and lien in the Collateral.

10. Creditor (and its principals, successors, assigns and/or the holder of the mortgage) is entitled to an order terminating the stay of proceedings under 11 U.S.C. § 362, so as to allow the enforcement against the Collateral of the loan Note and real estate mortgage dated July 29, 2005, recorded on August 3, 2005, in the Office of the Register of Deeds for Sheboygan County, as Document No. 1772583, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral, and the application of the net sale proceeds of said Collateral to the indebtedness owed by Debtors.

11. Creditor requests that the Court waive the 10-day stay regarding orders granting a motion for relief from automatic stay, as referenced in Federal Rule of Bankruptcy Procedure 4001(a)(3).

12. Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose. **See attached Notice.**

WHEREFORE, Creditor requests that the Court enter an Order terminating the stay of proceedings under 11 U.S.C. § 362, so as to allow Creditor (and its principals, successors, assigns and/or the holder of the mortgage) to enforce rights, interests, liens and claims in and against the Collateral, subject to the real estate mortgage dated July 29, 2005, recorded on August 3, 2005, in the Office of the Register of Deeds for Sheboygan County, as Document No. 1772583, in accordance with the terms of the above-mentioned loan and security documents, and applicable state law, including but not limited to the foreclosure and sale of the Collateral and the application of the net sale proceeds of the Collateral to the indebtedness owed by the Debtors; that any Order entered pursuant to this motion be effective immediately upon its entry; and

Such further relief as is just and equitable.

Dated: December 10, 2009.

KOHNER, MANN & KAILAS, S.C.
Attorneys for U.S. Bank National
Association, as Assignee of Mortgage
Electronic Registration Systems, Inc.,
Acting Solely as Nominee for U.S. Bank,
N.A.

By: Janine L. Collette
Attorney No. 1063934

Post Office Address:
Washington Building
4650 North Port Washington Road
Milwaukee, WI 53212-1059
Telephone: (414) 962-5110
Facsimile: (414) 962-8725

CERTIFICATE OF NO INTENT TO FILE A BRIEF

Janine L. Collette, one of the attorneys for Creditor, states that Creditor does not intend to file a brief with this Motion. Creditor, however, reserves the right to file a brief should a party in interest object to this Motion or file a brief in opposition to this motion.

Janine L. Collette

W:\FORECLOSURE\BANKRUPTCY\Ch 13\Motion Relief Stay.doc

NOTICE REQUIRED BY THE FAIR DEBT
COLLECTION PRACTICES ACT (the Act)
15 U.S.C. Section 1692 As Amended

1. Kohner, Mann & Kailas, S.C. is a debt collector and the attached Motion and this Notice are an attempt to collect a debt. Any information you provide to Kohner, Mann & Kailas, S.C. will be used for that purpose.
2. This Notice pertains to your dealings with Kohner, Mann & Kailas, S.C., as a debt collector. It does not affect your dealings with the court, and in particular it does not change the time at which you must respond to the Motion. The information in this Notice also does not affect my firm's relations with the court. As lawyers, Kohner, Mann & Kailas, S.C. may file papers in the court according to the court's rules and the judge's instructions.
3. The amount of the debt is stated in the Motion attached hereto. Because of interest, late charges, attorneys' fees and other charges, the total amount of the debt may vary from day-to-day, and may become greater than the amount stated in the Motion. Hence, if you arrange to pay the amount shown in the Motion, an adjustment may be necessary after we receive the payment check, in which event we will inform you before depositing the payment check. For further information write our firm at the address set forth below or call our firm at (414) 962-5110.
4. The creditor as named in the attached Motion is the creditor to whom the debt is owed.
5. The debt described in the Motion attached hereto will be assumed to be valid by Kohner, Mann & Kailas, S.C., unless you, within 30 days after the receipt of this Notice, dispute the validity of the debt or some portion thereof.
6. If you notify Kohner, Mann & Kailas, S.C. in writing within 30 days of the receipt of this Notice that the debt or any portion thereof is disputed, Kohner, Mann & Kailas, S.C. will obtain a verification of the debt and a copy of the verification will be mailed to you by Kohner, Mann & Kailas, S.C.
7. If the creditor as named in the attached Motion is not the original creditor, and if you make a written request to Kohner, Mann & Kailas, S.C. within the 30 days from the receipt of this Notice, the name and address of the original creditor will be mailed to you by Kohner, Mann & Kailas, S.C.
8. The law does not require us to wait until the end of the thirty (30) day period before proceeding before the court. If, however, you request proof of the debt or the name and address of the original creditor within the thirty (30) day period that begins with your receipt of this Notice, the law requires us to suspend our efforts (through litigation or otherwise) to collect the debt until we mail the requested information to you.
9. Written requests should be addressed to Kohner, Mann & Kailas, S.C., 4650 North Port Washington Road, Milwaukee, Wisconsin 53212-1059.

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In Re:

CASE NO. 09-26577-MDM

ROBERT L. MICHAEL and
TRACI L. MICHAEL
a/k/a TRACI L. LAVIGNE

CHAPTER 13

Debtors.

NOTICE OF MOTION OF U.S. BANK NATIONAL ASSOCIATION, AS ASSIGNEE OF
MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC., ACTING SOLELY AS
NOMINEE FOR U.S. BANK, N.A. FOR RELIEF FROM AUTOMATIC STAY

U.S. Bank National Association, as Assignee of Mortgage Electronic Registration
Systems, Inc., Acting Solely as Nominee for U.S. Bank, N.A., by its attorneys, Kohner, Mann &
Kailas, S.C., has filed papers with the Court to seek relief from the automatic stay. A copy of the
Motion is attached.

**Your rights may be affected. You should read these papers carefully and discuss
them with your attorney, if you have one in this bankruptcy case. (If you do not have an
attorney, you may wish to consult one.)**

If you do not want the Court to grant relief from the automatic stay, or if you want the
Court to consider your views on the motion, then **on or before December 28, 2009**, you or your
attorney must:

Janine L. Collette, Esq.
Attorneys for U.S. Bank, N.A.
Kohner, Mann & Kailas, S.C.
Washington Building
4650 North Port Washington Road
Milwaukee, WI 53212-1059
Telephone: (414) 962-5110
Facsimile: (414) 962-8725
Email: jcollette@kmmklawfirm.com

File with the court a written response explaining your position at:

Clerk of the U.S. Bankruptcy Court
United States Courthouse
517 East Wisconsin Avenue, Room 126
Milwaukee, WI 53202-4581

If you mail your response to the Court for filing, you must mail it early enough so the Court will receive it on or before the date stated above.

You must also mail a copy to:

Kohner, Mann & Kailas, S.C.
Attention: Janine L. Collette, Esq.
Washington Building
Barnabas Business Center
4650 North Port Washington Road
Milwaukee, WI 53212-1059

If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the motion and may enter an order granting that relief.

Our firm is a debt collector. This is an attempt to collect a debt, and any information obtained will be used for that purpose.

Dated: December 10, 2009.

KOHNER, MANN & KAILAS, S.C.
Attorneys for U.S. Bank National
Association, as Assignee of Mortgage
Electronic Registration Systems, Inc.,
Acting Solely as Nominee for U.S. Bank,
N.A.

By: Janine L. Collette
Attorney No. 1063934

Post Office Address:
Washington Building
4650 North Port Washington Road
Milwaukee, WI 53212
Telephone: (414) 962-5110
Facsimile: (414) 962-8725

UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

In Re:

CASE NO. 09-26577-MDM

ROBERT L. MICHAEL and
TRACI L. MICHAEL
a/k/a TRACI L. LAVIGNE

CHAPTER 13

Debtors.

CERTIFICATE OF SERVICE

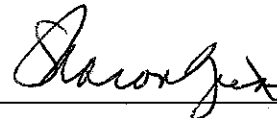
STATE OF WISCONSIN)
)SS
COUNTY OF MILWAUKEE)

I, the undersigned, hereby certify that on the 10th day of December, 2009, I caused a true copy of the foregoing **Notice of Motion and Motion of U.S. Bank National Association, as Assignee of Mortgage Electronic Registration Systems, Inc., Acting Solely as Nominee for U.S. Bank, N.A., for Relief from Automatic Stay**, to be served upon the following parties by Notice of Electronic Filing:

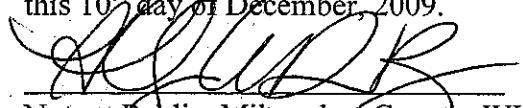
Thomas J. King, Chapter 13 Trustee
Richard A. Check, Debtors' Attorney
Office of the U.S. Trustee

I also caused to be manually served a true copy of the documents described above in a properly first-class, postpaid envelope bearing sender's name and return address, and addressed and mailed to:

Debtors
Robert L. Michael and
Traci L. Michael
1709 Wisconsin Avenue
Sheboygan, WI 53081



Subscribed and sworn to before me
this 10th day of December, 2009.


Notary Public, Milwaukee County, WI
My commission expires: 06/24/12.